

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DANIEL HARVEY RIGGS,

Petitioner,

Case No. 3:21-cv-00071-MMD-WGC

ORDER

TIMOTHY FILSON, *et al.*,

Respondents.

This habeas matter is before the Court on Petitioner Daniel Harvey Riggs's motion to withdraw (ECF No. 7)¹ and motion for appointment of counsel (ECF No. 10).² Also before the Court is petitioner's motion for order directing clerk to send docket sheet (ECF No. 8).

I. MOTION TO WITHDRAW AND MOTION FOR APPOINTMENT OF COUNSEL

Petitioner filed a counseled petition for writ of habeas corpus. (ECF No. 1.) Petitioner challenges two convictions imposed by the Second Judicial District Court for Washoe County, Nevada (“state court”). See *State of Nevada v. Petitioner*, Case No. CR13-1067, CR13-1364.³ In 2013, Petitioner entered a nolo contendere plea to two counts of attempted sexual assault as part of a global settlement resolving both cases. The state district court sentenced him to an aggregate term of 16 to 40 years.

Petitioner is currently represented by Robert Lindsay, Esq. Counsel for Petitioner

¹Respondents filed a non-opposition (ECF No. 9) to Petitioner's motion to withdraw.

²Respondents filed a non-opposition (ECF No. 11) to Petitioner's motion for appointment of counsel.

³The Court takes judicial notice of the online docket records of the Second Judicial District Court and Nevada appellate courts, which may be accessed at www.washoecourts.com/Query/DetailedCaseSearch and <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>.

1 asserts that he can no longer represent Petitioner due to his present physical condition
2 and that he is withdrawing from all but minor misdemeanor cases. The Court finds good
3 cause exists to grant counsel's motion to withdraw.

4 Turning to Petitioner's motion for appointment of counsel, there is no constitutional
5 right to appointed counsel in a federal habeas corpus proceeding. See *Luna v. Kernan*,
6 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327, 336-37
7 (2007)). But an indigent petitioner may request appointed counsel to pursue that relief.
8 See 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is generally
9 discretionary. *Id.* (authorizing appointed counsel "when the interests of justice so require");
10 see also *id.* § 3006A(a)(2).

11 Petitioner's motion asks the Court to appoint counsel because of the complexity of
12 this federal habeas action as well as the lengthy sentence structure. The Court finds
13 Petitioner is unable to afford counsel, and the issues presented warrant the appointment
14 of counsel. See 18 U.S.C. § 3006A(a)(2)(B). Accordingly, Petitioner's motion for
15 appointment of counsel is granted.

16 **II. MOTION FOR ORDER DIRECTING CLERK TO SEND DOCKET SHEET**

17 Petitioner's motion requests copies of the docket sheet and all filings in his case.
18 Generally, an inmate has no constitutional right to free photocopying or to obtain court
19 documents without payment. See *Johnson v. Moore*, 948 F.2d 517, 521 (9th Cir. 1991).
20 The fundamental constitutional right of access to the courts requires prison authorities
21 to help inmates prepare and file "meaningful legal papers by providing prisoners with
22 adequate law libraries or adequate assistance from persons trained in the law," *Bounds v.*
23 *Smith*, 430 U.S. 817, 828 (1977); it does not impose an obligation "to finance and support
24 prisoner litigation," *Lewis v. Casey*, 518 U.S. 343, 384-85 (1996).

25 As a one-time courtesy to Petitioner, the Court will instruct the Clerk's office to mail
26 him a copy of this order and the current docket sheet.

27 **III. CONCLUSION**

28 It is therefore ordered that Petitioner's counsel's motion to withdraw (ECF No. 7) is

1 granted.

2 It is further ordered that Petitioner's motion for appointment of counsel (ECF No. 10)
3 is granted.

4 It is further ordered that Petitioner's motion for order directing clerk to send docket
5 sheet (ECF No. 8) is granted in part. The Clerk of Court is instructed to mail Petitioner a
6 copy of this order and the current docket sheet.

7 It is further ordered that the Federal Public Defender is provisionally appointed as
8 counsel and will have 21 days from the date of this order to enter a notice of appearance
9 or to indicate the office's inability to represent Petitioner in these proceedings. If the
10 Federal Public Defender is unable to represent Petitioner, the Court will appoint alternate
11 counsel. The counsel appointed will represent Petitioner in all federal proceedings related
12 to this matter, including any appeals or certiorari proceedings, unless allowed to withdraw.
13 All deadlines set forth in ECF No. 3 will remain in place unless otherwise ordered by the
14 Court.

15 DATED THIS 13th Day of September 2021.

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18 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE
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